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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

LARGAN PRECISION CO., LTD.,

Plaintiff,

v.

SAMSUNG ELECTRONICS CO.,
LTD.; SAMSUNG ELECTRONICS
AMERICA, INC.; and SAMSUNG
TELECOMMUNICATIONS
AMERICA, LLC,

Defendants.

SAMSUNG ELECTRONICS CO.,
LTD.; SAMSUNG ELECTRONICS
AMERICA, INC.; and SAMSUNG
TELECOMMUNICATIONS
AMERICA, LLC,

Counterclaim Plaintiffs,

v.

LARGAN PRECISION CO., LTD.,

Counterclaim Defendant.

Case No. 13-CV-2740 DMS (NLS)

**SUPPLEMENTAL JOINT CLAIM
CONSTRUCTION HEARING
STATEMENT, CLAIM
CONSTRUCTION CHART, AND
CLAIM CONSTRUCTION
WORKSHEET PURSUANT TO
PATENT LOCAL RULE 4.2**

Pursuant to Patent Local Rule (“L.R.”) 4.2 and the Court’s Case Management Scheduling Order of May 5, 2014 (D.I. 35), Plaintiff Largan Precision Co., Ltd. (“Largan”) and Defendants Samsung Electronics Co., Ltd.; Samsung Electronics America, Inc.; and Samsung Telecommunications America, LLC’s (collectively “Samsung”), submit the following Supplemental Joint Claim Construction Hearing Statement (“Joint Statement”), Supplemental Claim Construction Chart and Supplemental Claim Construction Worksheet for U.S. Patent Nos. 7,262,925 (the “’925 Patent”); 7,394,602 (the “’602 Patent”); 8,154,807 (the “’807 Patent”); 8,508,860 (the “’860 Patent”); 8,670,190 (the “’190 Patent”); and 8,670,191 (the “’191 Patent”) (collectively the “Patents-in-Suit”).

I. Identification Of The Most Significant and Dispositive Terms (Patent L.R. 4.2(a))

Pursuant to Patent L.R. 4.2(a) and the Court’s Order Following Telephonic Status Conference, the parties have agreed upon a total of at least 5 disputed terms that require construction. D.I. 38 ¶ 3.¹

Largan does not believe that the construction of any disputed term will be case or claim dispositive.

Samsung believes that the claim construction of at least the following disputed terms may be claim and/or patent dispositive:

“ $\square L1R1/L1R2 \square < 0.5$ ”;

“ $\square R3R1/L3R2 \square > 0.3$ ”;

“ $1.5 > \square f/f1 \square > 1.0$ ”;

“ $1.2 > \square f/f2 \square > 0.7$ ”;

“ $1.2 > \square f/f3 \square > 0.3$ ”;

¹ Pursuant to the Court’s May 22, 2014 Order, Largan served its Preliminary Election of Asserted Claims on August 29, 2014 after Samsung had completed its work on its claim construction positions dropping more than 80 claims. D.I. 38. In these supplemental claim construction materials, Samsung has dropped those terms that it now understands not to be at issue on account of Largan’s election. Samsung reserves the right to further supplement this list should Largan take any contrary positions as the case progresses.

1 the preambles of independent claims are limiting; and
 2 “at least one inflection point formed on the object-side and image-side
 3 surfaces”.

4 Largan’s Additional Statement On The Identification Of Terms.

5 In addition to the 5 remaining terms in dispute, on the day this Joint Claim
 6 Construction Hearing Statement was due Samsung indicated for the first time that it
 7 would also like the Court to construe 9 different claim preambles. While Samsung
 8 identified a single term—“thin type”—from a single preamble in its preliminary
 9 proposed constructions (Patent L.R. 4.1.a), none of the remaining terms and phrases
 10 were identified in either Samsung’s preliminary proposed constructions or its
 11 responsive proposed constructions (Patent L.R. 4.1.c). Accordingly, Largan
 12 believes Samsung’s attempted introduction of these 9 different preambles for the
 13 first time on the day this filing is due violates the Patent Local Rules and prejudices
 14 Largan. Moreover, each of the 9 different preambles contain multiple, discrete sub-
 15 parts will need to be analyzed individually, meaning the real number of terms
 16 Samsung is newly asking the Court to construe vastly exceeds the Court’s limit of
 17 10 disputed terms.² As such, Largan does not believe these 9 terms to be properly
 18 before this Court.

19 The 5 disputed terms also does not include terms Samsung apparently alleges
 20 are “indefinite” yet refuses to raise to the Court at this time. In its Patent Local
 21 Rule 4.1.a and 4.1.c disclosures, Samsung identified a host of terms it alleged were
 22 indefinite yet, as the parties met and conferred to assemble this statement, Samsung
 23 took the position its states below that indefiniteness and claim construction are

24 _____
 25 ² Contrary to Samsung’s argument, Largan has not been inconsistent regarding
 26 construction of the symbol “□.” Because Largan alleges that symbol should be
 27 construed consistently, Largan maintained that that symbol counted as a single term
 28 against the Court’s limit of 10. While seeking to count each iteration of the same
 symbol as a different term, Samsung self-servingly attempts to count nine different
 preambles from five patents as one term. Largan believes that, when the Court
 examines the claim language itself, it will see which party’s interpretation was
 correct.

1 separate issues that can be raised at separate times. Based on its understanding of
2 the case law, Largan has consistently attempted to convince Samsung that all terms
3 Samsung asserts are indefinite should be raised to the Court during claim
4 construction and must fall within the Court's limit of ten total terms. Nevertheless,
5 Samsung disagrees. Accordingly, the parties require the Court's input as to
6 whether all the words and phrases Samsung claims are indefinite should be
7 included as part of the parties' claim construction briefs or not, and whether the
8 Court's overall limit of ten terms includes all allegedly indefinite terms or Samsung
9 can raise additional indefiniteness allegations at a later date.

10 Samsung's Additional Statement On The Identification Of Terms

11 Samsung respectfully disagrees with Largan's additional statements, which
12 inaccurately characterize the facts and arises from Largan's attempts to raise new
13 issues and arguments just hours before the original Joint Statement was due. It is
14 Samsung's position that these issues should have been raised and resolved earlier
15 when it had a full opportunity to address them, and that the parties should work
16 now to resolve them. Samsung includes its response here only to complete the
17 record with the hope of jointly resolving these issues.

18 With respect to the preamble issue raised by Largan, Samsung disagrees with
19 Largan's suggestion that it was allegedly unaware of the dispute and attempts to
20 distinguish it from its own positions. On August 1st, Samsung put Largan on notice
21 that it views the preambles of the patents to be limiting in its preliminary proposed
22 constructions by identifying the term "thin type" contained in the preamble of claim
23 7 of the '747 patent (which uses the phrase "from the object side to the image side")
24 as an indefinite term. The language in each of the preambles that make them
25 limiting is virtually the same as that in the '747 patent: a lens system comprising
26 "from [an]/[the] object side to the image side:". Largan recognized the preamble
27 issue because its August 15 responsive proposed constructions included the position
28 that the preamble is not limiting. In addition, during the parties' August 25th and

1 27th meet and confers Samsung explained that it disagreed with Largan's position
2 that the preambles of the patents were non-limiting and that it intended to submit
3 the issue as a disputed claim construction. Thus, Largan's position that the
4 preamble issue was not timely raised is incorrect.

5 Largan's timeliness argument is inconsistent with its own conduct. Largan
6 failed to identify "□" as an independent term in either its preliminary proposed
7 constructions (P.L.R. 4.1(a)) or its responsive proposed constructions (P.L.R.
8 4.1(c)). Instead, Largan waited until two days before this Joint Claim Construction
9 Statement was due to argue for the first time that "□" should be construed as its
10 own term. Samsung agreed to Largan's proposed inclusion of the terms with this
11 symbol to avoid disputes and have all issues heard by the Court. Although
12 Samsung's position is that there is no prejudice and the parties' disputed terms
13 should both be heard, to the extent Samsung's preamble issue was not timely
14 raised, Largan's term dispute is more untimely.

15 Largan's complaint that the preambles raise 9 different issues is likewise
16 incorrect and inconsistent with Largan's own position. As explained above, there is
17 a single basic issue that is common to the preambles. Largan has taken the same
18 position as Samsung with respect to its grouping of 5 different claim terms
19 containing "□" as a single issue for construction. To the extent the Court prefers
20 that, notwithstanding the common disputed issue, the preambles be treated as
21 separate terms, Largan's unilateral grouping of terms should likewise be treated
22 separately.

23 With respect to Largan's argument regarding terms that are contended to be
24 indefinite, to the extent Samsung understands Largan's argument, the argument is
25 legally incorrect. Claim construction and invalidity arising from indefiniteness are
26 different issues. Samsung has identified the terms it believes are indefinite in its
27 invalidity contentions based on its current understanding of Largan's positions and
28 interpretation of the patents. All of those indefinite terms were raised in the claim

1 construction process by one or both of the parties. The indefinite terms are
2 included in the list of terms in dispute, with the exception of two terms for which
3 the parties agreed to constructions and seven terms that Samsung understands to no
4 longer be in dispute on account of Largan's dropping of claims or its claim
5 construction positions. As a result, subject to Samsung's reserving its rights to
6 raise these indefiniteness arguments should Largan's positions change, the parties'
7 dispute regarding whether indefiniteness invalidity arguments must be raised as part
8 of claim construction appears moot. Accordingly, not all the terms are included for
9 construction.

10 Samsung continues to believe the parties should try to resolve these disputes
11 through further discussion.

12 **II. Claim Construction Chart Identifying Disputed Terms and Supporting**
13 **Evidence (Patent L.R. 4.2(b))**

14 Pursuant to Patent Local Rule 4.2(b), the Supplemental Joint Claim
15 Construction Chart attached as Appendix A to this statement sets forth: (a) the
16 complete language of disputed claims with the disputed terms in bold type and
17 separate columns for each party's proposed construction of each disputed term,
18 (b) each party's proposed constructions for those terms, (c) references from the
19 specification or prosecution history of the Patents-In-Suit that each party contends
20 support its proposed construction, (d) extrinsic evidence known to each party on
21 which it intends to rely either to support its proposed construction or to oppose any
22 other party's proposed construction, and (e) an identification of the impact of the
23 proposed constructions on the merits of the case.

24 Each party expressly reserves the right to propose additional or responsive
25 claim constructions and to supplement its proposed claim constructions and
26 supporting evidence as claim construction discovery progresses and the parties fully
27 brief the issues.
28

1 **III. Claim Construction Worksheet (Patent L.R. 4.2(c))**

2 Pursuant to Patent L.R. 4.2(c), the disputed claim terms and the agreed-upon
3 constructions are included in the Supplemental Joint Claim Construction
4 Worksheet, which is attached as Appendix B to this Joint Statement.

5 **IV. Length of Time for Claim Construction Hearing (Patent L.R. 4.2 (d)(1))**

6 The claim construction hearing is currently scheduled for November 24,
7 2014 at 9:00am. D.I. 35. If the Court determines that a technology tutorial would
8 be helpful, the parties believe it would be most efficient to hold it immediately
9 before the claim construction hearing. The parties estimate that a total of four hours
10 will be sufficient for both the claim construction hearing and the technology
11 tutorial.

12 **V. Witnesses to Be Called at Claim Construction Hearing (Patent L.R. 4.2**
13 **(d) (2))**

14 The parties agree that no expert or fact witnesses will be called at the claim
15 construction hearing.

16 **VI. Order of Presentation at Claim Construction Hearing (Patent L.R. 4.2**
17 **(e))**

18 The parties propose that, on a term-by-term basis, the party that proposed a
19 term for construction will present its argument first, followed by the opposing
20 party.
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1 DATED: September 12, 2014

DATED: September 12, 2014

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document has been served on September 12, 2014 to all counsel of record who are deemed to have consented to electronic service via the Court's CM/ECF system. Any other counsel of record will be served by electronic mail.

s/ David W. Higer
David Higer